

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SARAH WHITTIER BROWN,

Plaintiff,

v.

MICHAEL J. ASTRUE,

Defendant.

Case No. 14-cv-02051-VC

**ORDER GRANTING DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT; DENYING PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT**

Re: Doc. Nos. 25, 26

The Court has determined, after reviewing the briefs and the record, that a hearing is not necessary to decide these cross-motions for summary judgment. The Commissioner's motion for summary judgment is granted, and Brown's motion is denied.

The ALJ concluded that the divorce decree issued by the District of Columbia in 1974 is valid and enforceable, and that Virginia would give this order full faith and credit. This conclusion was not marred by legal error, and it was supported by substantial evidence. Brown contends the decree is invalid because she was not served in the divorce proceedings and because she was mentally incompetent at the time. But Brown admits she signed an answer to the complaint, which was accompanied by a certificate of acknowledgement notarized by the Consulate General of the United States Consul of Spain. The evidence further indicates that she was not hospitalized when she signed the answer, and that the Consulate was required to assess her competency at the time. Based on this evidence, the ALJ reasonably concluded that Brown had notice of the divorce proceedings.

Brown also contends that her separation from her husband, which served as the legal basis for the divorce, was not voluntary because she was mentally incompetent during the separation. But the record indicates that Brown and her husband were separated for three years before she was

1 first hospitalized. Only one year of separation was required for divorce, and substantial evidence  
2 supported the ALJ's conclusion that this separation qualified Brown and her husband for the  
3 divorce.

4 Finally, the ALJ reasonably concluded that the testimony of Mr. Koenick and Mr. Gespass  
5 were not "reasonably necessary" to a proper assessment of Brown's claim for benefits.

6  
7 **IT IS SO ORDERED.**

8 Dated: April 30, 2015



---

VINCE CHHABRIA  
United States District Judge